

HOUSE OF REPRESENTATIVES
Roll Call
JUDICIARY COMMITTEE

DATE: 1/24/07

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT/ EXCUSED</u>
REP. RON STOKER, VICE CHAIR	✓	
REP. JULIE FRENCH	✓	
REP. GEORGE EVERETT	✓	
REP. HOLLY RASER	✓	
REP. ROGER KOOPMAN	✓	
REP. DOUGLAS CORDIER	✓	
REP. KRAYTON KERNS	✓	
REP. ROBYN DRISCOLL	✓	
REP. KEN PETERSON	✓	
REP. JESSE O'HARA	✓	
REP. TOM MCGILLVRAY	✓	
REP. DEBORAH KOTTEL	✓	
REP. JOHN WARD	✓	
REP. BOB EBINGER	✓	
REP. RICK JORE	✓	
REP. DAVE GALLIK, VICE CHAIR	✓	
CHAIRMAN DIANE RICE	✓	



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HOUSE STANDING COMMITTEE REPORT

January 24, 2007

Page 1 of 2

Mr. Speaker:

We, your committee on **Judiciary** recommend that **House Bill 53** (first reading copy -- white) do
pass as amended.

Signed: *Diane Rice*
Representative Diane Rice, Chair

And, that such amendments read:

1. Page 1, line 23.

Following: line 22

Insert: "(4) A certificate substantially similar to the
following must be accepted as valid under this section:
Tribal Court Child Custody Certification of Presiding Tribal
Court Judge

I,, Tribal Court Judge of the
Tribe, do hereby certify that I presided over the matter of
.....

(Name of proceeding for order sought to be enforced)
and that the attached order is entitled to be treated as an order
of a state of the United States under the Uniform Child Custody
Jurisdiction and Enforcement Act, Title 40, chapter 7, Montana
Code Annotated. The determination was made in a proceeding that
meets the requirements of section 40-7-135(3), MCA.

.....
Tribal Court Judge

.....
DATE"

2. Page 1, line 26.

Following: "order"

Insert: "only"

3. Page 1, line 27.

Committee Vote:

Yes 9, No 8

Fiscal Note Required ____

161703SC.hjd

jbn
1/25/07



Sc
Pam
173.1

HOUSE STANDING COMMITTEE REPORT

January 24, 2007

Page 1 of 1

Mr. Speaker:

We, your committee on **Judiciary** recommend that **House Bill 83** (first reading copy -- white) do pass as amended.

Signed: _____

Diane Rice
Representative Diane Rice, Chair

And, that such amendments read:

1. Page 3, line 4.

Following: "~~parole.~~"

Insert: "(8) Sections 46-23-203, 46-23-205 through 46-23-207,
and 46-23-215 through 46-23-218 apply to nonmedical parole."

- END -

Committee Vote:

Yes 17, No 0

Fiscal Note Required ____

161542SC.hjd

jbn
1/25/07



See
Page
173, 1

HOUSE STANDING COMMITTEE REPORT

January 24, 2007

Page 1 of 4

Mr. Speaker:

We, your committee on **Judiciary** recommend that **House Bill 91** (first reading copy -- white) do pass as amended.

Signed: *Diane Rice*
Representative Diane Rice, Chair

And, that such amendments read:

1. Title, line 7.

Strike: "HEALTH"

Insert: "CERTAIN"

2. Title, line 8.

Strike: the first "AND"

Following: "41-3-432,"

Insert: "AND 41-3-445,"

3. Page 4, line 14.

Strike: "Christian Science practitioners and"

4. Page 4, line 21.

Following: "clergy"

Insert: ", as defined in 15-6-201(2)(a) "

5. Page 4, line 25.

Strike: "health"

6. Page 15.

Following: line 27

Insert: ""Section 8. Section 41-3-445, MCA, is amended to read:

"41-3-445. Permanency hearing. (1) (a) (i) Subject to

Committee Vote:

Yes 9, No 8

Fiscal Note Required ____

161543SC.hjd

1/25/07
jbn

subsection (1)(b), a permanency hearing must be held by the court or, subject to the approval of the court and absent an objection by a party to the proceeding, by the foster care review committee, as provided in 41-3-115, or the citizen review board, as provided in 41-3-1010:

(A) within 30 days of a determination that reasonable efforts to provide preservation or reunification services are not necessary under 41-3-423, 41-3-438(6), or 41-3-442(1); or

(B) no later than 12 months after the initial court finding that the child has been subjected to abuse or neglect or 12 months after the child's first 60 days of removal from the home, whichever comes first.

(ii) Within 12 months of a hearing under subsection (1)(a)(i)(B) and every 12 months thereafter until the child is permanently placed in either an adoptive or a guardianship placement, the court or the court-approved entity holding the permanency hearing shall conduct a hearing and the court shall issue a finding as to whether the department has made reasonable efforts to finalize the permanency plan for the child.

(b) A permanency hearing is not required if the proceeding has been dismissed, the child was not removed from the home, the child has been returned to the child's parent or guardian, or the child has been legally adopted or appointed a legal guardian.

(c) The permanency hearing may be combined with a hearing that is required in other sections of this part or with a review held pursuant to 41-3-115 or 41-3-1010 if held within the applicable time limits. If a permanency hearing is combined with another hearing or a review, the requirements of the court related to the disposition of the other hearing or review must be met in addition to the requirements of this section.

(d) The court-approved entity conducting the permanency hearing may elect to hold joint or separate reviews for groups of siblings, but the court shall issue specific findings for each child.

(2) At least 3 working days prior to the permanency hearing, the department shall submit a report regarding the child to the entity that will be conducting the hearing for review. The report must address the department's efforts to effectuate the permanency plan for the child, address the options for the child's permanent placement, examine the reasons for excluding higher priority options, and set forth the proposed plan to carry out the placement decision, including specific times for achieving the plan.

(3) At least 3 working days prior to the permanency hearing, the guardian ad litem or an attorney or advocate for a parent or guardian may submit an informational report to the entity that will be conducting the hearing for review.

(4) In a permanency hearing, the court or other entity conducting the hearing shall consult, in an age-appropriate manner, with the child regarding the proposed permanency or transition plan for the child.

~~(4)~~(5) (a) The court's order must be issued within 20 days after the permanency hearing if the hearing was conducted by the court. If a member of the child's extended family, including an adult sibling, grandparent, great-grandparent, aunt, or uncle, has requested that custody be awarded to that family member or that a prior grant of temporary custody with that family member be made permanent, the department shall investigate and determine if awarding custody to that family member is in the best interests of the child. The department shall provide the reasons for any denial to the court. If the court accepts the department's custody recommendation, the court shall inform any denied family member of the reasons for the denial to the extent that confidentiality laws allow. The court shall include the reasons for denial in the court order if the family member who is denied custody requests it to be included.

(b) If an entity other than the court conducts the hearing, the entity shall keep minutes of the hearing and the minutes and written recommendations must be provided to the court within 20 days of the hearing.

(c) If an entity other than the court conducts the hearing and the court concurs with the recommendations, the court may adopt the recommendations as findings with no additional hearing required. In this case, the court shall issue written findings within 10 days of receipt of the written recommendations.

~~(5)~~(6) The court shall approve a specific permanency plan for the child and make written findings on:

(a) whether the permanency plan is in the best interests of the child;

(b) whether the department has made reasonable efforts to finalize the plan; and

(c) other necessary steps that the department is required to take to effectuate the terms of the plan.

~~(6)~~(7) In its discretion, the court may enter any other order that it determines to be in the best interests of the child that does not conflict with the options provided in subsection ~~(7)~~(8) and that does not require an expenditure of money by the department unless the court finds after notice and a hearing that the expenditures are reasonable and that resources are available for payment. The department is the payor of last resort after all family, insurance, and other resources have been examined.

~~(7)~~(8) Permanency options include:

(a) reunification of the child with the child's parent or guardian;

(b) adoption;

(c) appointment of a guardian pursuant to 41-3-444; or

(d) long-term custody if the child is in a planned permanent living arrangement and if it is established by a preponderance of the evidence, which is reflected in specific findings by the court, that:

(i) the child is being cared for by a fit and willing relative;

(ii) the child has an emotional or mental handicap that is so severe that the child cannot function in a family setting and the best interests of the child are served by placement in a residential or group setting;

(iii) the child is at least 16 years of age and is participating in an independent living program and that termination of parental rights is not in the best interests of the child;

(iv) the child's parent is incarcerated and circumstances, including placement of the child and continued, frequent contact with the parent, indicate that it would not be in the best interests of the child to terminate parental rights of that parent; or

(v) the child meets the following criteria:

(A) the child has been adjudicated a youth in need of care;

(B) the department has made reasonable efforts to reunite the parent and child, further efforts by the department would likely be unproductive, and reunification of the child with the parent or guardian would be contrary to the best interests of the child;

(C) there is a judicial finding that other more permanent placement options for the child have been considered and found to be inappropriate or not to be in the best interests of the child; and

(D) the child has been in a placement in which the foster parent or relative has committed to the long-term care and to a relationship with the child, and it is in the best interests of the child to remain in that placement.

~~(8)~~(9) The court may terminate a planned permanent living arrangement upon petition of the birth parents or the department if the court finds that the circumstances of the child or family have substantially changed and the best interests of the child are no longer being served. ""

Renumber: subsequent sections

- END -

Following: "(a)"
Insert: "at the time"
Following: the first "the"
Strike: "issuing"
Following: "court"
Insert: "issued the order, the tribal court"
Following: "personal"
Strike: "subject matter"
Following: "over the"
Strike: "contesting party"
Insert: "parties and children"

4. Page 2, line 5.

Following: "order"
Strike: ", "
Insert: "and"

5. Page 2, line 6.

Following: "evidence"
Strike: ", and issue other appropriate orders"

6. Page 2, line 8.

Following: line 7
Insert: "(3) If the district court finds that the tribal court had personal jurisdiction over the parties and children at the time the order was issued but enforcement of the order would violate the public policy of the state, the district court shall dismiss the case contesting enforcement without prejudice. The district court may not substitute its judgment for that of the tribal court on the merits of the case."

Renumber: subsequent subsection

7. Page 2, line 9.

Following: the third "order"
Insert: "and directing appropriate enforcement of the order"

- END -

HOUSE OF REPRESENTATIVES
Roll Call Vote
JUDICIARY COMMITTEE

DATE 1/24/07 BILL NO 53 MOTION NO. 3

MOTION: Do Pass As Amended

<u>NAME</u>	AYE	NO	If Proxy Vote, check here and include signed Proxy Form with minutes.
REP. RON STOKER, VICE CHAIR		1	
REP. JULIE FRENCH	1		
REP. GEORGE EVERETT		1	
REP. HOLLY RASER	1		
REP. ROGER KOOPMAN		1	
REP. DOUGLAS CORDIER	1		
REP. KRAYTON KERNS		1	
REP. ROBYN DRISCOLL	1		
REP. KEN PETERSON		1	
REP. JESSE O'HARA		1	
REP. TOM MCGILLVRAY	1		
REP. DEBORAH KOTTEL	1		
REP. JOHN WARD	1		
REP. BOB EBINGER	1		
REP. RICK JORE		1	
REP. DAVE GALLIK, VICE CHAIR	1		
CHAIRMAN DIANE RICE		1	

[Handwritten signature]

HOUSE OF REPRESENTATIVES
Roll Call Vote
JUDICIARY COMMITTEE

DATE 1/24/07 BILL NO. 83 MOTION NO. 3

MOTION: Do Pass As Amended

<u>NAME</u>	AYE	NO	If Proxy Vote, check here and include signed Proxy Form with minutes.
REP. RON STOKER, VICE CHAIR	<u>X</u>		
REP. JULIE FRENCH	<u>/</u>		
REP. GEORGE EVERETT	<u>/</u>		
REP. HOLLY RASER	<u>/</u>		
REP. ROGER KOOPMAN	<u>/</u>		
REP. DOUGLAS CORDIER	<u>/</u>		
REP. KRAYTON KERNS	<u>/</u>		
REP. ROBYN DRISCOLL	<u>/</u>		
REP. KEN PETERSON	<u>/</u>		
REP. JESSE O'HARA	<u>/</u>		
REP. TOM MCGILLVRAY	<u>/</u>		
REP. DEBORAH KOTTEL	<u>/</u>		
REP. JOHN WARD	<u>/</u>		
REP. BOB EBINGER	<u>/</u>		
REP. RICK JORE	<u>/</u>		
REP. DAVE GALLIK, VICE CHAIR	<u>/</u>		
CHAIRMAN DIANE RICE	<u>/</u>		

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HOUSE OF REPRESENTATIVES
Roll Call Vote
JUDICIARY COMMITTEE

DATE 1/24/07 BILL NO 91 MOTION NO. 7

MOTION: Do Pass As Amended

<u>NAME</u>	AYE	NO	If Proxy Vote, check here and include signed Proxy Form with minutes.
REP. RON STOKER, VICE CHAIR	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
REP. JULIE FRENCH	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
REP. GEORGE EVERETT	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
REP. HOLLY RASER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
REP. ROGER KOOPMAN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
REP. DOUGLAS CORDIER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
REP. KRAYTON KERNS	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
REP. ROBYN DRISCOLL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
REP. KEN PETERSON	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
REP. JESSE O'HARA	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
REP. TOM MCGILLVRAY	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
REP. DEBORAH KOTTEL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
REP. JOHN WARD	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
REP. BOB EBINGER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
REP. RICK JORE	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
REP. DAVE GALLIK, VICE CHAIR	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
CHAIRMAN DIANE RICE	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

9/8

AUTHORIZED COMMITTEE PROXY

I request to be excused from the Judiciary

Committee because of other commitments. I desire to leave my proxy vote with:

Gallik

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

BILL/AMENDMENT

AYE NO

HB 27		X
HB 1701 Amend	X	
HB 2801 Amend	X	
HB 2801 Amend	X	
HB 28	X	
<hr/>		
Amend (2) to HB 91 (voice)	X	
Amend (1 & 3) to HB 91	X	
HB 91	X	

BILL/AMENDMENT

AYE NO

Rep.

Robyn Driscoll
(Signature)

Date

**Montana House of Representatives
Visitors' Register**

Judiciary COMMITTEE

Date 1-21-07

Bill Nos. 287, 341, 349, 384 Sponsor(s) Wiseman, Gallik, Koane, Rice

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Name	Representing	Bill No.	Support	Oppose	Info.
Shirley Faust 370-9796	Montana Assn. Clerks of District Court	341	X		
Mary "Marty" Phippen	Mt. Assn. Clerks of Dist. Ct.	341	X		
David ANDERSON	Constitution Party of Yellowstone County	384	X		
Cathy Day	ACLU of Montana	287	X		
Lois Fitzpatrick	MT. Library Assn	287	✓		
Lois Fitzpatrick	" "	384	✓		
Elaine Branceley	Sec of State	341	✓		
Hal Hays	Gov. Office	287	✓		
Jay McKeon	Const. Party	384	✓		
Arthur Hollowell	Const Party	384	✓		
Don Judge	Teachers Local 190	HB 287	✓		
Sean O'Farrell	Self	384	✓		
STAN JONES	MY Country	384	✓		
KEIN D. GILKSTROM	my Country	384	✓		
DON DOIG	Self	384	✓		
Vance Harrison	IDP	287/384	✓		
Bill Scannell	The Identity Project	287/384	✓		
FRANKLIN ELIAS SHOOK	JEFFERSON RIVER COALITION	HB 384	✓		
ADELL WESTRISIC	SELF	HB 384	✓		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

**Montana House of Representatives
Visitors' Register**

Judiciary COMMITTEE

Date 1/24/07

Bill Nos. 287, 341, 349 Sponsor(s) Wiseman, Gallik, Keane, Keen

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Name	Representing	Bill No.	Support	Oppose	Info.
<u>Clinton Coen</u>	<u>C.B.U. + self</u>	<u>384</u>	<u>X</u>		
<u>Doug Nulle</u>	<u>SELF</u>	<u>384</u>	<u>X</u>		
<u>Doug Nulle</u>	<u>SELF</u>	<u>287</u>	<u>X</u>		
<u>Tom Daubert</u>	<u>self</u>	<u>287</u>	<u>X</u>		
<u>Tom Daubert</u>	<u>self</u>	<u>384</u>	<u>X</u>		
<u>Phil Olson</u>	<u>SELF</u>	<u>384</u>	<u>X</u>		
<u>William B. Cameron</u>	<u>SELF</u>	<u>287</u>	<u>X</u>		
<u>Andrea J. Olsen</u>	<u>MTLA</u>	<u>341</u>	<u>X</u>		
<u>Mila Wilson</u>	<u>MTLP</u>	<u>287/384</u>	<u>X</u>		
<u>Kelsy Hargis</u>	<u>MCADSV</u>	<u>287</u>	<u>X</u>		
<u>CARY MARBOUT</u>	<u>MISSA</u>	<u>287/384</u>	<u>X</u>		
<u>BRENDA NORDLUND</u>	<u>DOT</u>	<u>341</u>	<u>X</u>		
<u>ROBERT HROSEK</u>	<u>MTA Assoc. Clerk/Rec</u>	<u>349</u>	<u>X</u>		
<u>Sheryl Wood</u>	<u>MAco</u>	<u>341</u>	<u>X</u>		
<u>Pat Plowman</u>	<u>self & Carbon Cnty.</u>	<u>HB 347</u>	<u>X</u>		
<u>Pat Plowman</u>	<u>self & family</u>	<u>HB 384</u>	<u>X</u>		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

HOUSE OF REPRESENTATIVES

Judiciary Committee

WITNESS STATEMENT

PLEASE PRINT

NAME David ANDERSON BUDGET _____

ADDRESS 3870 7 mile Flat Road DATE 24 JAN 07
worden MT 59088

WHOM DO YOU REPRESENT? Myself & Constitution Party of Yellowstone Co.

SUPPORT: X OPPOSE _____ AMEND _____

COMMENTS:

I support Nullification of Real ID

HOUSE OF REPRESENTATIVES

Judiciary Committee

WITNESS STATEMENT

PLEASE PRINT

NAME Pat Plowman BUDGET HB 384

ADDRESS PO Box 173 Boyd MT 59013 DATE 1/24/07

WHOM DO YOU REPRESENT? self and family

SUPPORT: ☒ ✓ OPPOSE ☐ AMEND ☐

COMMENTS:

Please, as a private citizen with three children in the Navy, I, as well as my husband, value my privacy and reiterate our right & responsibility to protect our identity